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November 7, 2014

BY ECF AND FACSIMILE

Honorable Paul G. Gardephe
United States District Judge
United States District Court for the
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York, 10007

Re: Perry A. Gruss v. Daniel B. Zwirn et al., 09 Civ. 6441 (PGG)

Dear Judge Gardephe:

On behalf of our client, Daniel Zwirn, and with the consent of the co-defendants D.B. Zwirn & Co., L.P. and D.B. Zwirn Partners, LLC, we respectfully write to request an immediate conference in this matter; if possible, on Monday, November 10, 2014.

Because we do not know “the advice that separate counsel has provided to Plaintiff which conflicts with Liddle & Robinson’s representation”, we take no position on counsel’s request to make an ex parte submission on its motion to withdraw. Our position with respect to whether Liddle & Robinson should be permitted to withdraw as counsel will be informed by the Court’s determination of whether its application is premised upon an ethical impediment to the firm continuing to represent Plaintiff.

At bottom, our concern is to avoid any delay of the scheduled depositions and the discovery deadlines in this matter.

With great effort the parties were able to arrange for the depositions of all three defendants to occur during the next two weeks: Mr. Zwirn on November 11, and two 30(b)(6) depositions on November 17 and November 21. An additional deposition of a third-party is scheduled for December 12. This Court previously noted that it would be “a travesty” to delay the discovery cutoff beyond January 2, 2015, and we ask the Court to ensure

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that Plaintiff not be permitted any further delay unless necessitated by ethical rules, especially if the basis for the current request was previously known to Plaintiff Perry Gruss.

Respectfully submitted,



John S. Siffert

JSS:ac

cc: Alan Levine, Esq.
Jeffrey L. Liddle, Esq.
Nathaniel H. Akerman, Esq.